DOCKET NO.: **BU-0124
Application No.: 10/609,426
Office Action Dated: March 12, 2008

PATENT
SUBMISSION FILED
PURSUANT TO
37 CFR § 1.111

REMARKS

Claims 1-35 are pending in the present application, with claims 1, 13 and 21 being the independent claims. Claims 1, 4-9, 12-13, 21, 24-29, and 32 are amended. No new matter has been added and no new issues have been raised by these amendments.

In the Office Action dated March 12, 2008, claims 1-32 were provisionally rejected on the ground of nonstatutory obviousness-type double patenting over a copending application. Claims 1, 4, 5, 9-11, 21, 24, 25, and 29-31 are rejected under 35 U.S.C. §102(b). Claims 2, 3, 6, 7, 12-20, 22, 23, 26, 27, and 32-35 are rejected under 35 U.S.C. §103(a). This rejection is respectfully traversed.

Double Patenting Rejection

In the Office Action, claims 1-32 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as allegedly being unpatentable over claims 21-40 of copending U.S. Application No. 11/468,613. The Office Action contends that, although the conflicting claims are not identical, they are not patentably distinct from each other because the claim language of the '613 application essentially recites the exact same limitations as its parent case, the present application. Applicants respectfully traverse this rejection.

Claims 1, 13, and 21 of the present application, for example, includes the feature of detecting the addition of new content on a first server in the plurality of servers; updating a first state table on the first server with information about the new content; communicating the information about the new content to each server in the plurality of servers; and updating each state table of each server in the plurality of servers with the information about the new content, or similar features. Application No. 11/468,613, on the other hand, contains no claimed feature of detecting the addition of new content and updating the plurality of servers with information about the new content. These, and other features, render the claims of the present application and Application No. 11/468,613 patentably distinct. Accordingly, Applicants respectfully request reconsideration and withdrawal of the double patenting rejection of claims 1-32.

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Rejections under 35 U.S.C. §102

In the Office Action, claims 1, 4, 5, 9-11, 21, 24, 25, and 29-31 are rejected under 35 U.S.C. 102(b) as allegedly being anticipated by U.S. Patent No. 6,370,584 issued to Bestavros (hereinafter referred to as "Bestavros".) Applicants respectfully traverse this rejection.

Independent claims 1 and 21 have been amended to clarify the claimed subject matter. Claims 1 and 21 now include the feature of detecting the addition of new content on a first server in the plurality of servers; updating a first state table on the first server with information about the new content; communicating the information about the new content to each server in the plurality of servers; and updating each state table of each server in the plurality of servers with the information about the new content. Applicants respectfully assert that this feature is not disclosed or suggested in Bestavros.

Claims 1 and 21 also include the feature of "*designating a director from the plurality of servers to receive the request, wherein the designation is made on a request-by-request basis, wherein any of the servers can be selected as the director*". The Office Action on page 4 asserts that Bestavros' abstract discloses this feature. Applicant's respectfully disagree. Bestavros' abstract discloses:

> In a computer network with a plurality of client computers and a group of host computers, each host computer in the group is capable of both servicing requests from the client computers and rerouting requests to other host computers in the group. Distribution of servicing and routing functions in accordance with predetermined criteria promotes fault tolerance, transparency and load sharing within the group. The predetermined criteria can be either stateless or utilize states. In the case of an Internet Web server, distribution of Layer 4 routing obviates the need for a connection router to achieve load balancing. Distribution of Layer 3 routing reduces reliance on routing devices in general.

While Bestavros' discloses that each host computer in the group is capable of both servicing requests from the client computers and rerouting requests to other host computers in the group, nowhere in Bestavros' abstract is **designating a director** from the plurality of servers to receive the request, wherein the designation is made on a request-by-request basis.

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Bestavros discloses that "Requests are directed from an individual client to an individual host." Bestavros column 3, lines 5-6. Bestavros' individual host may then service the request or reroute the request. Bestavros column 3, lines 17-21 based on predetermined criteria. In Bestavros, requests are communicated from a particular client to a particular host, or server. In contradistinction, claims 1 and 21 recite designating a director from the plurality of servers to receive the request, wherein the designation is made on a request-by-request basis.

Furthermore, claim 1 recites designating a director from the plurality of servers **to receive** the request. Bestavros discloses determining whether to service or reroute a request after the request is received on a host. Thus, Bestavros does not disclose **designating a director** from the plurality of servers to receive the request, wherein the designation is made on a request-by-request basis..

Regarding claims 4 and 24, the Office Action asserts that Bestavros column 3, lines 35-55 discloses selecting the director if the content is stored on the director. Applicants respectfully disagree. This section of Bestavros discloses determining whether to service or reroute a request based on predetermined criteria. The predetermined criteria may include availability of data for the response. However, this determination is made by the host device that receives the request. As described above with regard to claims 1 and 21, in Bestavros, requests are directed from an individual client to an individual host. Bestavros column 3, lines 5-6. This is not the same as selecting the director if the requested content is present on the director, as claimed in claims 4 and 24.

As asserted above, the present subject matter teaches designating a director from the plurality of servers **to receive** the request. Bestavros discloses determining whether to service or reroute a request after the request is received on a host. Thus, Bestavros does not disclose the subject matter of claim 4 and 24.

In order for a reference to anticipate a claim, it must teach and/or suggest all of the recited elements as well as the arrangements of those elements. The cited reference does not because Bestavros fails to teach or even suggest all of the claimed elements. Therefore, Bestavros cannot possibly anticipate claims 1, 4, 21, and 24. Accordingly, Applicants respectfully submit that claims 1, 4, 21, and 24 are allowable over the cited art, and request

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reconsideration and withdrawal of the rejection of claims 1, 4, 21, and 24 under 35 U.S.C. §102(b).

Rejections under 35 U.S.C. §103

In the Office Action, claims 12-19 and 32-35 are rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over Bestavros in view of "Load Balancing a Cluster of Webservers Using Distributed Packet Rewriting" by Aversa et al. (hereinafter referred to as "Aversa".) Applicants respectfully traverse this rejection.

Independent claim 13 has been amended to further clarify the claimed subject matter. Claim 13 now includes the feature of wherein the addition of an asset to the server computer initiates a change to the state table of the server computer and a transmission of information about the change to each of the other servers in said plurality of server computers. The Office Action on page 9 asserts that Aversa section 3.3 discloses pushing changes to the state table. This section of Aversa discloses broadcasting the local server's own load periodically. Aversa section 3.3, lines 3-6. However, a server's load and an asset on a server are not the same. Neither this section of Aversa, nor elsewhere in Aversa, is the addition of an **asset** to the server computer initiates a change to the state table of the server computer and a transmission of information about the change to each of the other servers in said plurality of server computers disclosed.

Claim 13 is further rejected on substantially the same grounds as claim 1. Accordingly, Applicants submit that the arguments set forth herein in regard to claim 1 also apply to claim 13. In order for a reference or references to anticipate or render a claim obvious, they must teach and/or suggest all of the recited elements as well as the arrangements of those elements. The cited references do not because Bestavros and Aversa fail to teach or even suggest all of the claimed elements. Therefore, Bestavros and Aversa cannot render obvious claim 13. Accordingly, Applicants respectfully submit that claim 13 is allowable over the cited art, and request reconsideration and withdrawal of the rejection of claim 13 and all claims dependent thereon under 35 U.S.C. §103(a).

Applicants acknowledge that the Office Action establishes additional grounds for rejection of claims 2-3, 5-12, 14-20, 22-23, and 25-35, all of which are dependent upon claims 1, 13 and 21, either directly or indirectly. However, in view of the amendments and

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traversals set forth with respect to the independent claims, Applicants believe that claims 2-3, 5-12, 14-20, 22-23, and 25-35 are in condition for allowance, rendering the rejection of those claims moot. Applicants believe that this response completely and accurately addresses all grounds of rejection. Applicants reserve the right to challenge the rejection of any of those dependent claims in any future response that may be forthcoming.

CONCLUSION

In view of the foregoing, Applicants respectfully submit that this application, including claims 1-35, is in condition for allowance. Favorable consideration and prompt allowance are earnestly solicited.

Should the Examiner believe that anything further would be desirable in order this application in even better condition for allowance, the Examiner is invited to contact Applicants' undersigned representative at the telephone number listed below.

Respectfully submitted,

Date: June 5, 2008

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